

railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

(3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

(4) Renewal of leases and any other matters where the Board has previously authorized the transaction, and only an extension in time is involved.

(5) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(6) Reincorporation in a different State.

(7) Acquisition of trackage rights and renewal of trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers that are: (i) based on written agreements, and (ii) not filed or sought in responsive applications in rail consolidation proceedings.

[47 FR 9844, Mar. 8, 1982. Redesignated at 47 FR 49592, Nov. 1, 1982, and amended at 50 FR 15751, Apr. 22, 1985; 51 FR 24669, July 8, 1986; 58 FR 63104, Nov. 30, 1993; 62 FR 9716, Mar. 4, 1997]

§1180.3 Definitions.

(a) *Applicant*. The parties initiating a transaction. Parties who are considered applicants, but for whom the information normally required of an applicant need *not* be submitted, are (1) in *minor* trackage rights applications, the transferor and (2) in responsive applications, a primary applicant.

(b) *Applicant carriers*. Applicant, *all carriers related to the applicant*, and all other carriers involved in the transaction. This does not include carriers who are involved in an existing trackage rights agreement with applicants.

(c) *Major market extension*. A major market extension is a transaction which may significantly increase competition by extending service into a new market, expanding service in a currently served market when another carrier concurrently contracts its service to that market as part of the same transaction, or providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be

used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) Creating a shorter route; (2) providing enhanced service capabilities (speed is not the only factor); (3) entering an interchange or market generating more than 5,000 cars per year or 5 percent of applicant's traffic; (4) filing the application as a condition of relief to a pending proceeding; and (5) permitting a carrier to become more competitive (extending its length of haul) See. *Burlington Northern, Inc.—Control & Merger—St. L.*, 354 I.C.C. 616, 617 (1978).

(d) *Petition for clarification*. A request that the Board clarify the applicability of any part of these regulations to a particular situation or explain the type of material needed to comply with these regulations.

(e) *Petition for waiver*. A request that the Board either dispense with material required by the regulations, or accept material in place of that required by these regulations.

(f) *Primary application*. A proposal for approval filed under 49 U.S.C. 11323 which begins a new proceeding and is not proposed either as a condition to or as an alternative to Board approval of another pending application.

(g) *Railroad*. Any common carrier by railroad as defined in 49 U.S.C. 10102(5)–(6).

(h) *Responsive applications*. Applications filed in response to a primary application are those seeking affirmative relief either as a condition to or in lieu of the approval of the primary application. Responsive applications include inconsistent applications, inclusion applications, and any other affirmative relief that requires an application, petition, notice, or any other filing to be submitted to the Board (such as trackage rights, purchases, constructions, operation, pooling, terminal operations, abandonments, and other types of proceedings not otherwise covered). For fees covering inconsistent applications or responsive applications not otherwise covered in the Board's fee schedule, see 49 CFR 1002.2(f) (38)–(41) and 1180.4(d)(4)(ii). The fees for all other responsive applications are set forth in 49 CFR 1002.2(f).

(i) *Transferee*. The transferee is:

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- (1) The acquiring corporation in a control proceeding,
 - (2) The surviving corporation in a merger,
 - (3) The resulting corporation in a consolidation,
 - (4) The leasee in a lease,
 - (5) The purchaser in an acquisition, and
 - (6) The grantee of trackage rights in a trackage rights proceeding.
- (j) *Transferor*. The transferor is:
 - (1) The corporation acquired in a control proceeding,
 - (2) The merging corporation in a merger,
 - (3) All corporations to be consolidated in a consolidation,
 - (4) The lessor in a lease,
 - (5) The seller in an acquisition, and
 - (6) The grantor of trackage rights in a trackage rights proceeding.

[47 FR 9844, Mar. 8, 1982. Redesignated at 47 FR 49592, Nov. 1, 1982, as amended at 62 FR 9716, Mar. 4, 1997; 62 FR 28376, May 23, 1997]

§1180.4 Procedures.

- (a) *General*. (1) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *significant* and *minor* proceedings.
- (2) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.
- (3) Any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Board may require the submission of additional copies of any document previously filed by any party to the proceeding.
- (4) The Board shall issue a list of all parties to the proceeding within 55 days of the application's acceptance in a *major* transaction, and within 45 days in a *significant* or *minor* transaction.
- (b) *Prefiling notification*. (1) Between 3 to 6 months prior to the proposed filing of an application in a *major* transaction, and 2 to 4 months prior to the proposed filing of an application in a *significant* transaction, applicant shall file a notice with the Board. The notice shall:

- (i) Briefly describe the transaction,
 - (ii) Indicate the year to be used for the impact analysis,
 - (iii) Indicate the approximate filing date of the application, and
 - (iv) Indicate why the transaction is *major* or *significant*.
- (2) The Board will publish a notice in the FEDERAL REGISTER within 30 days of receipt of the applicant's notice. The publication shall contain:
 - (i) A brief description of the transaction,
 - (ii) The year to be used for the impact analysis,
 - (iii) The approximate filing date,
 - (iv) A determination that the transaction is *major*, *significant*, or *minor*, and
 - (v) A statement of any additional information which must be filed with the application in order for the application to be considered complete.
 - (3) A prefiling notice may be amended to indicate a change in the anticipated filing date.
 - (c) *Application*. (1) The fees for filing applications, petitions, or notices under these procedures are set forth in 49 CFR 1002.2.
 - (2) Filing requirements.
 - (i) The original of all applications shall be signed in ink by the applicant, if an individual; by all partners, if a partnership; and if a corporation, association, or other similar form of organization, by its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant. Applications shall be made under oath and shall contain appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling an applicant shall also sign the application.
 - (ii) The application shall be filed with Secretary, Surface Transportation Board, Washington, DC 20423.
 - (iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner, where certified copies of documents are filed with the application,